

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TADESSE BAYENE,)	8:10CV256
)	
Plaintiff,)	
)	MEMORANDUM
v.)	AND ORDER
)	
FARMLAND FOODS, Inc.,)	
)	
Defendant.)	
_____)	

This case was dismissed without prejudice on November 30, 2010, for lack of subject matter jurisdiction. On July 10, 2019, Plaintiff filed a motion to reopen the case, stating, “Judge Batallion¹ acted unlawful,” “I did not get a clear understanding of what the court ruled,” and “I have had several agencies look into my case without explaining what was decided in this case.” (Filing 31)

Liberalizing Plaintiff’s filing as a motion for relief from judgment, filed pursuant to Federal Rule of Civil Procedure 60(b)(6), the court finds it should be denied. Under Rule 60(b)(6), relief is only available “where exceptional circumstances have denied the moving party a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress.” *Holmes v. United States*, 898 F.3d 785, 792 (8th Cir. 2018) (quoting *Harley v. Zoesch*, 413 F.3d 866, 871 (8th Cir. 2005)).

Here, it was fully explained to Plaintiff on September 22, 2010, following the court’s initial review of Plaintiff’s pro se complaint, that he needed to provide evidence showing that the amount in controversy exceeded the jurisdictional amount of \$75,000. (Filing 9) When Plaintiff failed to do so, the case was dismissed. (Filing 13) The court’s action was proper, and Plaintiff’s lack of understanding is not a sufficient reason for granting relief from the judgment, which was entered more than 8 years ago. In addition, Plaintiff’s motion was not filed within a reasonable time, as required by Rule 60(c)(1).

¹ The judgment dismissing the case was actually entered by Judge Strom. (Filing 14)

IT IS THEREFORE ORDERED:

1. Plaintiff's motion to reopen case (Filing 31) is denied.
2. Plaintiff's motion for leave to proceed in forma pauperis (Filing 32) is denied.

DATED this 12th day of July, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge